IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 592 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 19.3.1999 in W.P.NO :7154 OF 1997 on the file of the High Court.)

Between:

S.Sree Hari, S/o.Veera Raghavaiah

Lecturer in Commerce STBC College of Arts and Commerce,

R.S.Road, Kurnool

..... APPELLANT

AND

1. Sri B.Uday Kumar, Part Time Lecturer

   STBC Degree College, Kurnool
2. M.Ramanjaneyulu
3. The President & Chairman of General Council

   STBC 26-49, Safilguda, Hyderabad 500 047
4. The Ch airman, Board of Education

   STBC CAM Compound, Nellore-3
5. The Educational Secretary, Collegiate Education

   Board of Education of the Samavasam of Telugu Baptist

Churches, CAM Compound, Nellore

6. The Secretary/Correspondent of STBC Degree College of Kurnool, CAM Compound, Nellore
7. The Commissioner of Collegiate Education, Government of Andhra Pradesh, Nampally, Hyderabad
8. The Regional Joint Director of Higher Education Cuddapah, Cuddapah District

.....RESPONDENT

Counsel for the Appellant : MR.T.RAJENDRA PRASAD
Counsel for Respondent Nos.1 & 2 : MR.V.S.R.MURTHY
Counsel for the Respondent Nos.3 to 6: MVS.SURESH KUMAR
Counsel for Respondent Nos.7& 8: GP FOR HIGHER EDUCATION

The Court made the following JUDGMENT:(per TMK,J)

The present writ appeal has been filed by respondent No.7 in the writ petition against the order in W.P.No.7154 of 1997 and C.C.No.217 of 1998 dated 19.03.1999 passed by a learned single Judge of this Court.

Respondents-1 and 2 herein are the writ petitioners and respondents-3 to 8 and the appellant herein are the respondents-1 to 7 respectively in the writ petition.

Originally, the petitioners have preferred the writ petition in W.P.No:7154 of 1997 seeking for a direction to declare the action of the respondents in not paying the salaries to them and also to direct respondents-5 and 6 to approve their appointments. The learned single Judge having observed that the action of the official respondents-5 and 6 in not approving the appointments of the petitioners is illegal, has issued a direction to respondents 5 and 6 to approve their appointments. Having aggrieved by the same, the present writ appeal is preferred by the 7th respondent.

The main thrust of the argument of the learned counsel appearing on behalf of the 7th respondent that as a matter of fact, during the pendency of the writ petition, no notice was served on the 7th respondent.

It is further contended that though the application in W.P.M.P.No.35799 of 1998 filed by the petitioners during the pendency of the writ petition, seeking to implead the 7th respondent, was ordered on 22.10.1998, no notice either from the Registry of this Court or from any of the counsel has been served on the 7th respondent. Therefore, the 7th respondent is deprived of his opportunity to defend his case before the learned single Judge and therefore, the order of the learned single is not sustainable.

On the other hand, while disputing the contention of the learned counsel for the 7th respondent that no notice has been served against the 7th respondent, Mr.K.G.Krishna Murthy, the learned counsel appearing on behalf of the unofficial respondent has filed a memo before this Court to show that notice was already served against the 7th respondent.

In view of the controversy, we have perused the memo filed by the learned counsel for the unofficial respondent, which reads as under:

> "As per directions of this Hon'ble Court, I have sent notices to the respondent No.7 is sent and the notices is served on the respondent No.7. I am herewith filing the acknowledgements for proof of service of the same. Hence this Memo."

The said memo was filed in connection with C.C.No:217 of 1998. A perusal of the said memo goes to show that notice has been served against the 7th respondent. A glance at the contempt case discloses that the 7th respondent is not a party. In view of the fact that no notices were served, we have also an occasion to go through the original records of the writ petition, which does not reveal that any notice was served against the 7th respondent.

In the present facts and circumstances of the case, without expressing any opinion on the merits of the case, we feel it appropriate to remit the matter back to the learned single Judge hearing the writ petitions for fresh disposal.

Accordingly, this writ appeal is allowed and the order of the learned single Judge is set aside. The matter is remitted back to the learned single Judge hearing the writ petitions for fresh disposal.

The Registrar (Judicial) is directed to post the writ petition before the learned single Judge hearing the writ petition.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

Dt: 09.02.2005

bsv/gurc

To

1. The President & Chairman of General Council
   STBC 26-49, Safilguda, Hyderabad 500 047
2. The Ch airman, Board of Education
   STBC CAM Compound, Nellore-3
3. The Educational Secretary, Collegiate Education
   Board of Education of the Samavasam of Telugu Baptist
   Churches, CAM Compound, Nellore
4. The Secretary/Correspondent of STBC Degree College of
   Kurnool, CAM Compound, Nellore
5. The Commissioner of Collegiate Education, Government of
   Andhra Pradesh, Nampally, Hyderabad

6. The Regional Joint Director of Higher Education

   Cuddapah, Cuddapah District

7. Two CCs to the Government PIeader for Higher Education,

High Court of A.P., Hyderabad (OUT)

8. Two CD copies

9. The Section Officer, Posting Section